

REMARKS

Claims 2-16, 19, 20, and 22 are pending after entry of this paper. Claims 2-8 have been rejected. Claims 9-16, 19, 20, and 22 have been withdrawn and claims 1, 17, 18, and 21 have been previously cancelled without prejudice. Applicants reserve the right to pursue withdrawn and cancelled claims in a divisional or continuing application.

No new matter has been introduced by this response. Reconsideration and withdrawal of the pending rejections in view of the below remarks are respectfully requested.

Response to Rejections under 35 U.S.C. §102(a)

Claims 2-8 have been rejected under 35 U.S.C. §102(a) as being anticipated by Kuwana et al. (*J Leuko Biol* 74:833-845, **2003**). Specifically, the Patent Office contends that Kuwana, which was published in **November 2003**, teaches MOMC cells. (Office Action; p. 3). The Patent Office also notes, citing M.P.E.P. 201.15 that “[a]pplicant cannot rely upon the foreign priority papers [Japanese Patent Application No. 2003-074573 dated **March 18, 2003**] to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 C.F.R. §1.55.” (Office Action; p. 4; emphasis added).

Applicants recognize that the foreign priority documents were submitted without an English translation. However, applicants respectfully note that “[a]n English language translation of a non-English language foreign application is not required except: [*inter alia*] when necessary to overcome the date of a reference relied upon by the Examiner . . . together with a statement that the translation of the certified copy is accurate.” (See 37 C.F.R. §1.55(a)(4)(i) and (ii)). Therefore, in order to overcome the reference relied upon by the

Examiner, *i.e.*, Kuwana dated November 2003, applicants respectfully submit herewith (1) an English language translation of the Japanese Patent Application No. 2003-074573 dated **March 18, 2003** to which the instant application claims priority, and (2) a statement by Ms. Emiko Oku of HIROTA & ASSOCIATES that the translation of the foreign priority document is accurate.

Applicants respectfully assert that in light of this submission, the rejection under 35 U.S.C. §102(a) as being anticipated by Kuwana is now moot. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(a) of claims 2-8 as being anticipated by Kuwana, et al. are respectfully requested.

CONCLUSION

Based on the foregoing amendments and remarks, the applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application. The applicants respectfully submit that the instant application is in condition for allowance. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **50-4827**, Order No. 1004316.009US.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-4827**, Order No. 1004316.009US.

Respectfully submitted,
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